

106TH CONGRESS
1ST SESSION

S. 226

To promote democracy and good governance in Nigeria, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. FEINGOLD introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To promote democracy and good governance in Nigeria, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nigerian Democracy
5 and Civil Society Empowerment Act of 1999”.

6 **SEC. 2. FINDINGS AND DECLARATION OF POLICY.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

9 (1) The rule by successive military regimes in
10 Nigeria has harmed the lives of the people of Nige-

1 ria, undermined confidence in the Nigerian economy,
2 damaged relations between Nigeria and the United
3 States, and threatened the political and economic
4 stability of West Africa.

5 (2) The current military regime, under the
6 leadership of Gen. Abdusalami Abubakar, has made
7 significant progress in liberalizing the political envi-
8 ronment in Nigeria, including the release of many
9 political prisoners, increased respect for freedom of
10 assembly, expression and association, and the estab-
11 lishment of a timeframe for a transition to civilian
12 rule.

13 (3) Previous military regimes allowed Nigeria to
14 become a haven for international drug trafficking
15 rings and other criminal organizations, although the
16 current government has taken some steps to cooper-
17 ate with the United States Government in halting
18 such trafficking.

19 (4) Since 1993, the United States and other
20 members of the international community have im-
21 posed limited sanctions against Nigeria in response
22 to human rights violations and political repression,
23 although some of these sanctions have been lifted in
24 response to recent political liberalization.

1 (5) Despite the progress made in protecting
2 certain freedoms, numerous decrees are still in force
3 that suspend the constitutional protection of fun-
4 damental human rights, allow indefinite detention
5 without charge, and revoke the jurisdiction of civil-
6 ian courts over executive actions.

7 (6) As a party to the International Covenant on
8 Civil and Political Rights (ICCPR) and the African
9 Charter on Human and Peoples' Rights, and a sig-
10 natory to the Harare Commonwealth Declaration,
11 Nigeria is obligated to fairly conduct elections that
12 guarantee the free expression of the will of the elec-
13 tors.

14 (7) As the leading military force within the
15 Economic Community of West African States
16 (ECOWAS) peacekeeping force, Nigeria has played
17 a major role in attempting to secure peace in Liberia
18 and Sierra Leone.

19 (8) Despite the optimism expressed by many
20 observers about the progress that has been made in
21 Nigeria, the country's recent history raises serious
22 questions about the potential success of the transi-
23 tion process. In particular, events in the Niger Delta
24 over the New Year underscore the critical need for
25 ongoing monitoring of the situation and indicate

1 that a return by the military to repressive methods
2 is still a possibility.

3 (b) DECLARATION OF POLICY.—Congress declares
4 that the United States should encourage political, eco-
5 nomic, and legal reforms necessary to ensure rule of law
6 and respect for human rights in Nigeria and support a
7 timely, effective, and sustainable transition to democratic,
8 civilian government in Nigeria.

9 **SEC. 3. SENSE OF CONGRESS.**

10 (a) INTERNATIONAL COOPERATION.—It is the sense
11 of Congress that the President should actively seek to co-
12 ordinate with other countries to further—

13 (1) the United States policy of promoting the
14 rule of law and respect for human rights; and

15 (2) the transition to democratic civilian govern-
16 ment.

17 (b) UNITED NATIONS HUMAN RIGHTS COMMIS-
18 sion.—It is the sense of Congress that, in light of the
19 importance of Nigeria to the region and the severity of
20 successive military regimes, the President should instruct
21 the United States Representative to the United Nations
22 Commission on Human Rights (UNCHR) to use the voice
23 and vote of the United States at the annual meeting of
24 the Commission—

1 (1) to condemn human rights abuses in Nigeria,
 2 as appropriate, while recognizing the progress that
 3 has been made; and

4 (2) to press for the continued renewal of the
 5 mandate of, and continued access to Nigeria for, the
 6 special rapporteur on Nigeria.

7 **SEC. 4. ASSISTANCE TO PROMOTE DEMOCRACY AND CIVIL**
 8 **SOCIETY IN NIGERIA.**

9 (a) DEVELOPMENT ASSISTANCE.—

10 (1) IN GENERAL.—Of the amounts made avail-
 11 able for fiscal years 2000, 2001, and 2002 to carry
 12 out chapter 1 of part I of the Foreign Assistance
 13 Act of 1961 (22 U.S.C. 2151 et seq.), not less than
 14 \$10,000,000 for fiscal year 2000, not less than
 15 \$12,000,000 for fiscal year 2001, and not less than
 16 \$15,000,000 for fiscal year 2002 should be available
 17 for assistance described in paragraph (2) for Nige-
 18 ria.

19 (2) ASSISTANCE DESCRIBED.—

20 (A) IN GENERAL.—The assistance de-
 21 scribed in this paragraph is assistance provided
 22 to nongovernmental organizations for the pur-
 23 pose of promoting democracy, good governance,
 24 and the rule of law in Nigeria.

1 (B) ADDITIONAL REQUIREMENT.—In pro-
2 viding assistance under this subsection, the Ad-
3 ministrator of the United States Agency for
4 International Development shall ensure that
5 nongovernmental organizations receiving such
6 assistance represent a broad cross-section of so-
7 ciety in Nigeria and seek to promote democ-
8 racy, human rights, and accountable govern-
9 ment.

10 (3) GRANTS FOR PROMOTION OF HUMAN
11 RIGHTS.—Of the amounts made available for fiscal
12 years 2000, 2001, and 2002 under paragraph (1),
13 not less than \$500,000 for each such fiscal year
14 should be available to the United States Agency for
15 International Development for the purpose of provid-
16 ing grants of not more than \$25,000 each to sup-
17 port individuals or nongovernmental organizations
18 that seek to promote, directly or indirectly, the ad-
19 vancement of human rights in Nigeria.

20 (b) USIA INFORMATION ASSISTANCE.—Of the
21 amounts made available for fiscal years 2000, 2001, and
22 2002 under subsection (a)(1), not less than \$1,000,000
23 for fiscal year 2000, \$1,500,000 for fiscal year 2001, and
24 \$2,000,000 for fiscal year 2002 should be made available
25 to the United States Information Agency for the purpose

1 of supporting its activities in Nigeria, including the pro-
2 motion of greater awareness among Nigerians of constitu-
3 tional democracy, the rule of law, and respect for human
4 rights.

5 (c) STAFF LEVELS AND ASSIGNMENTS OF UNITED
6 STATES PERSONNEL IN NIGERIA.—

7 (1) FINDING.—Congress finds that staff levels
8 at the office of the United States Agency for Inter-
9 national Development in Lagos, Nigeria, are inad-
10 equate.

11 (2) SENSE OF CONGRESS.—It is the sense of
12 Congress that the Administrator of the United
13 States Agency for International Development
14 should—

15 (A) increase the number of United States
16 personnel at such Agency's office in Lagos, Ni-
17 geria, from within the current, overall staff re-
18 sources of such Agency in order for such office
19 to be sufficiently staffed to carry out subsection
20 (a); and

21 (B) consider placement of personnel else-
22 where in Nigeria.

1 **SEC. 5. PROHIBITION ON ECONOMIC ASSISTANCE TO THE**
 2 **GOVERNMENT OF NIGERIA; PROHIBITION ON**
 3 **MILITARY ASSISTANCE FOR NIGERIA; RE-**
 4 **QUIREMENT TO OPPOSE MULTILATERAL AS-**
 5 **SISTANCE FOR NIGERIA.**

6 (a) PROHIBITION ON ECONOMIC ASSISTANCE.—

7 (1) IN GENERAL.—Economic assistance (includ-
 8 ing funds previously appropriated for economic as-
 9 sistance) shall not be provided to the Government of
 10 Nigeria.

11 (2) ECONOMIC ASSISTANCE DEFINED.—As used
 12 in this subsection, the term “economic assistance”—

13 (A) means—

14 (i) any assistance under part I of the
 15 Foreign Assistance Act of 1961 (22 U.S.C.
 16 2151 et seq.) and any assistance under
 17 chapter 4 of part II of such Act (22 U.S.C.
 18 2346 et seq.) (relating to economic support
 19 fund); and

20 (ii) any financing by the Export-Im-
 21 port Bank of the United States, financing
 22 and assistance by the Overseas Private In-
 23 vestment Corporation, and assistance by
 24 the Trade and Development Agency; and

25 (B) does not include disaster relief assist-
 26 ance, refugee assistance, or narcotics control as-

1 sistance under chapter 8 of part I of the For-
2 eign Assistance Act of 1961 (22 U.S.C. 2291 et
3 seq.).

4 (b) PROHIBITION ON MILITARY ASSISTANCE OR
5 ARMS TRANSFERS.—

6 (1) IN GENERAL.—Military assistance (includ-
7 ing funds previously appropriated for military assist-
8 ance) or arms transfers shall not be provided to Ni-
9 geria.

10 (2) MILITARY ASSISTANCE OR ARMS TRANS-
11 FERS.—The term “military assistance or arms
12 transfers” means—

13 (A) assistance under chapter 2 of part II
14 of the Foreign Assistance Act of 1961 (22
15 U.S.C. 2311 et seq.) (relating to military assist-
16 ance), including the transfer of excess defense
17 articles under section 516 of that Act (22
18 U.S.C. 2321j);

19 (B) assistance under chapter 5 of part II
20 of the Foreign Assistance Act of 1961 (22
21 U.S.C. 2347 et seq.) (relating to international
22 military education and training);

23 (C) assistance under the “Foreign Military
24 Financing Program” under section 23 of the
25 Arms Export Control Act (22 U.S.C. 2763); or

1 (D) the transfer of defense articles, de-
2 fense services, or design and construction serv-
3 ices under the Arms Export Control Act (22
4 U.S.C. 2751 et seq.), including defense articles
5 and defense services licensed or approved for
6 export under section 38 of that Act (22 U.S.C.
7 2778).

8 (c) REQUIREMENT TO OPPOSE MULTILATERAL AS-
9 SISTANCE.—

10 (1) IN GENERAL.—The Secretary of the Treas-
11 ury shall instruct the United States executive direc-
12 tor to each of the international financial institutions
13 described in paragraph (2) to use the voice and vote
14 of the United States to oppose any assistance to the
15 Government of Nigeria.

16 (2) INTERNATIONAL FINANCIAL INSTITUTIONS
17 DESCRIBED.—The international financial institutions
18 described in this paragraph are the African Develop-
19 ment Bank, the International Bank for Reconstruc-
20 tion and Development, the International Develop-
21 ment Association, the International Finance Cor-
22 poration, the Multilateral Investment Guaranty
23 Agency, and the International Monetary Fund.

1 **SEC. 6. SENSE OF CONGRESS REGARDING ADMISSION INTO**
2 **THE UNITED STATES OF CERTAIN NIGERIAN**
3 **NATIONALS.**

4 It is the sense of Congress that unless the President
5 determines and certifies to the appropriate congressional
6 committees by July 1, 1999, that a democratic transition
7 to civilian rule has taken place in Nigeria, the Secretary
8 of State should deny a visa to any alien who is a senior
9 member of the Nigerian government or a military officer
10 currently in the armed forces of Nigeria.

11 **SEC. 7. WAIVER OF PROHIBITIONS AGAINST NIGERIA IF**
12 **CERTAIN REQUIREMENTS MET.**

13 (a) IN GENERAL.—The President may waive any of
14 the prohibitions contained in section 5 or 6 for any fiscal
15 year if the President makes a determination under sub-
16 section (b) for that fiscal year and transmits a notification
17 to Congress of that determination under subsection (c).

18 (b) PRESIDENTIAL DETERMINATION REQUIRED.—A
19 determination under this subsection is a determination
20 that—

21 (1) the Government of Nigeria—

22 (A) is not harassing or imprisoning human
23 rights and democracy advocates and individuals
24 for expressing their political views;

25 (B) has implemented the transition pro-
26 gram announced in July 1998;

1 (C) is respecting freedom of speech, assem-
2 bly, and the media, including cessation of har-
3 assment of journalists;

4 (D) has released the remaining individuals
5 who have been imprisoned without due process
6 or for political reasons;

7 (E) is continuing to provide access for
8 independent international human rights mon-
9 itors;

10 (F) has repealed all decrees and laws
11 that—

12 (i) grant undue powers to the mili-
13 tary;

14 (ii) suspend the constitutional protec-
15 tion of fundamental human rights;

16 (iii) allow indefinite detention without
17 charge, including the State of Security
18 (Detention of Persons) Decree No. 2 of
19 1984; or

20 (iv) create special tribunals that do
21 not respect international standards of due
22 process; and

23 (G) has ensured that the policing of the oil
24 producing communities is carried out without
25 excessive use of force or systematic and wide-

1 spread human rights violations against the civil-
2 ian population of the area; or

3 (2) it is in the national interests of the United
4 States to waive the prohibition in section 5 or 6, as
5 the case may be.

6 (c) CONGRESSIONAL NOTIFICATION.—Notification
7 under this subsection is written notification of the deter-
8 mination of the President under subsection (b) provided
9 to the appropriate congressional committees not less than
10 15 days in advance of any waiver of any prohibition in
11 section 5 or 6, subject to the procedures applicable to re-
12 programming notifications under section 634A of the For-
13 eign Assistance Act of 1961 (22 U.S.C. 2394–1).

14 **SEC. 8. REPORT OF CORRUPTION IN NIGERIA.**

15 Not later than 3 months after the date of the enact-
16 ment of this Act, and annually for the next 5 years there-
17 after, the Secretary of State shall prepare and submit to
18 the appropriate congressional committees, and make avail-
19 able to the public, a report on corruption in Nigeria. This
20 report shall include—

21 (1) evidence of corruption by government offi-
22 cials in Nigeria;

23 (2) the impact of corruption on the delivery of
24 government services in Nigeria;

1 (3) the impact of corruption on United States
2 business interests in Nigeria;

3 (4) the impact of advance fee fraud, and other
4 fraudulent business schemes originating in Nigeria,
5 on United States citizens; and

6 (5) the impact of corruption on Nigeria’s for-
7 eign policy.

8 **SEC. 9. APPROPRIATE CONGRESSIONAL COMMITTEES DE-**
9 **FINED.**

10 Except as provided in section 6, in this Act, the term
11 “appropriate congressional committees” means—

12 (1) the Committee on International Relations of
13 the House of Representatives;

14 (2) the Committee on Foreign Relations of the
15 Senate; and

16 (3) the Committees on Appropriations of the
17 House of Representatives and the Senate.

18 **SEC. 10. TERMINATION DATE.**

19 The provisions of this Act shall terminate on Septem-
20 ber 30, 2004.

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